

Pete Ricketts, Governor

March 1, 2016

Karen D. Walker
Holland & Knight LLP
315 S. Calhoun Street, Suite 600
Tallahassee, FL 32301

RE: WellCare of Nebraska, Inc. Protest of Award
RFP No. 5151 Z1 - *Full-Risk Capitated Medicaid Managed Care Program for Physical Health, Behavioral Health and Pharmacy Services*

Dear Ms. Walker:

We are in receipt of your letter dated February 19, 2016, regarding your protest of the Intent to Award in connection with the above-captioned RFP. After careful review and consideration of the matter, we find as follows:

State Purchasing Bureau ("SPB") is in agreement that some sections of the Corporate Overview were not scored properly and in accordance with the directions. In an effort to maintain the integrity of the evaluation and award process, SPB is in the process of rescinding the Intent to Award for the purposes of a limited re-evaluation using new evaluators; but the State is not rejecting bids.

The Corporate Overview section of all bid proposals will be re-evaluated with corrected scoring and a new Intent to Award will be posted once completed.

- A. **Evaluation criteria are fatally flawed.** WellCare of Nebraska, Inc. ("WellCare"), in this Section A. of the protest, states the Evaluation Criteria is fatally flawed as Section IV.Z. FFS Claims Management and Processing is included for all bidders to be evaluated and scored on their response to such section. They further state that the Bureau should have either conducted a separate procurement for the FFS contract or established a separate process for evaluation of the FFS Claims Management Services.

RESPONSE: This was a purposeful decision on the part of the Agency. It was clearly laid out in the RFP how this section was to be scored.

- B. **The scoring of the proposals was irregular and inconsistent.** WellCare raises several issues in this section of the protest, as shown below:

1. WellCare states, "It is clear from a review of the records relating to the RFP produced by the Bureau, however, that the scoring of the proposals submitted in the response to the RFP was not verified for accuracy." It is also noted in Footnote 8, "Evaluation Scoring Verification" is absent from the Bureau's webpage.

RESPONSE: Scoring was verified by SPB in that SPB confirms that the scores add up correctly. The website reflects the date that the verification was completed. There is nothing missing from SPB's webpage in relation to this line item.

2. Team 1, Evaluator 2 did not following the Scoring Instructions:

RESPONSE: SPB acknowledges that there were evaluators who did not score the Corporate Overview as the score sheet was written. For this reason the Corporate Overview section of all bid proposals will be re-evaluated by new evaluators with corrected scoring.

3. The Scoring of Risk Bearing Relationships was Inconsistent Across Evaluators:

RESPONSE: Multiple evaluators are used to provide a range of subjective opinion. Inconsistencies are expected and desired, based upon the opinion of the evaluator. The integrity of the process is not to guide the scoring, but to allow it to occur on the basis of an independent subjective valuation.

4. There are numerous other inconsistencies in scoring:

RESPONSE: See response to item B.3 above.

C. Evaluation Committee should have conducted oral interviews. WellCare stated, "As there was no clear break in the scoring, between the first 3 highest ranked bidders, orals should have been done."

RESPONSE: Oral interviews are entirely at the discretion of the Agency. As stated in the RFP, "the State reserves the right to select only the top scoring bidders to present/give oral interviews in its sole discretion." The Agency elected to not hold oral interviews.

D. Certain Bidders did not comply with the spirit and intent of the RFP with respect to disclosure of contract terminations and sanctions.

RESPONSE: SPB finds that the bidders responded to the referenced sections of the RFP appropriately. The information was disclosed by both Nebraska Total Care and United Healthcare.

Based upon this review, as stated above, the original contract award will be rescinded and a new Intent to Award will be posted upon completed of the limited re-evaluation, and as such, the protest received is moot. Please continue to monitor the SPB website for all information relevant to the RFP.

We thank you for your interest in doing business with the State of Nebraska.

Sincerely,



Marilyn Bottrell, Materiel Administrator
Administrative Services – Materiel Division

cc: Michelle Thompson, Buyer
Brad Gianakos, DHHS

MB:jls